

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT

State of Washington
DEPARTMENT OF ECOLOGY
(hereinafter referred to as the Department)
Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, Washington 98008-5452

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

B. P. OIL COMPANY
B. P. Oil #11093
295 SW 41st Street, Building 13, Suite N
Renton, Washington 98055

Industry Location:
16320 Mill Creek Blvd.
Mill Creek, WA 98012
Snohomish County
Snohomish WQMA

Receiving Water:
North Creek tributary to
Sammamish River

Industry Type:
Ground Water Remediation
Gasoline Service Station

Discharge Location:
Latitude: 47° 51' 0" W
Longitude: 122° 12' 0" N

Water Body I.D. No.:
WA-08-1065

is authorized to discharge in accordance with the Special and General Conditions which follow.

Kevin C. Fitzpatrick
Water Quality Section Manager
Northwest Regional Office
Washington State Department of Ecology

TABLE OF CONTENTS

SUMMARY OF SUBMITTALS.....	3
----------------------------	---

SPECIAL CONDITIONS

S1. EFFLUENT LIMITATIONS.....	4
S2. TESTING SCHEDULE.....	5
S3. MONITORING AND REPORTING.....	5
S4. SOLID WASTE DISPOSAL.....	8
S5. SPILL PLAN.....	9
S6. TREATMENT SYSTEM OPERATING PLAN.....	9
S7. STORMWATER BEST MANAGEMENT PRACTICES PLAN.....	9
S8. WELL CONSTRUCTION DETAILS.....	10
S9. GROUND WATER QUALITY ANNUAL EVALUATION.....	11

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS.....	12
G2. RIGHT OF INSPECTION AND ENTRY.....	13
G3. PERMIT ACTIONS.....	13
G4. REPORTING A CAUSE FOR MODIFICATION.....	14
G5. PLAN REVIEW REQUIRED.....	15
G6. COMPLIANCE WITH OTHER LAWS AND STATUTES.....	15
G7. DUTY TO REAPPLY.....	15
G8. TRANSFER OF THIS PERMIT.....	15
G9. REDUCED PRODUCTION FOR COMPLIANCE.....	16
G10. REMOVED SUBSTANCES.....	16
G11. DUTY TO PROVIDE INFORMATION.....	16
G12. OTHER REQUIREMENTS OF 40 CFR.....	16
G13. ADDITIONAL MONITORING.....	16
G14. PAYMENT OF FEES.....	16
G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS.....	16
G16. UPSET.....	17
G17. PROPERTY RIGHTS.....	17
G18. DUTY TO COMPLY.....	17
G19. TOXIC POLLUTANTS.....	17
G20. PENALTIES FOR TAMPERING.....	17
G21. REPORTING ANTICIPATED NONCOMPLIANCE.....	18
G22. REPORTING OTHER INFORMATION.....	18
G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGES.....	18
G24. COMPLIANCE SCHEDULES.....	19

SUMMARY OF SUBMITTALS

Permit Section	Submittal	Frequency	First Submittal Date
S3.A.	Discharge Monitoring Report	Quarterly	July 15, 2004
S5.	Spill Control Plan Update	1/permit cycle in first year	October 30, 2004
S6.	Treatment System Operating Plan Update	As necessary	Within thirty (30) days after implementation
S7.	Storm Water Best Management Practices Plan Update	As necessary	Thirty (30) days before implementation
S9.	Ground Water Quality Annual Evaluation	Annually	June 30, 2005, and annually thereafter
G17.	Duty to Reapply	1/permit cycle	December 30, 2008

SPECIAL CONDITIONS

S1. EFFLUENT LIMITATIONS

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge treated ground water (final effluent) to North Creek via City storm sewers, at the discharge location, Outfall 001, subject to meeting the following limitations:

OUTFALL No. 001

EFFLUENT LIMITATIONS

<u>Parameter</u>	<u>Daily Maximum^a</u>
Flow (gpd)	43,200
pH (s.u.)	Between 6.5 and 8.5 standard units
Benzene (µg/L)	5.0
BTEX (µg/L)	100
TPH-G (mg/L)	1.0
Volatile Organic Compounds (µg/L):	
Trichloroethene	1.0 ^b
Vinyl Chloride	0.2 ^b
trans-1,2-Dichloroethene	1.0 ^b
cis-1,2-Dichloroethene	1.0 ^b
Tetrachloroethane	1.0 ^b

^a The daily maximum is defined as the greatest allowable value for any calendar day.

^b The method detection level (MDL) for each volatile organic compound is 1 to 2 µg/L using gas chromatography/mass spectrometry, EPA method number 624 from 40 CFR Part 136 or method 8240 or 8260. The quantitation level (QL) is 10 µg/L for each parameter. These QLs will be used for assessment of compliance with these effluent limits. If the measured effluent concentration is above the MDL but below the QL, the Permittee shall report NQ for nonquantifiable and the measured concentration shall be reported as an attachment to the Discharge Monitoring Report.

S2. TESTING SCHEDULE

The Permittee shall monitor the wastewater according to the following schedule:

Tests	Sample Point ¹	Sampling Frequency ²	Sample Type
Flow	Final Effluent	1/month	Totalizing Recorder
pH	Final Effluent	1/month	Grab
Benzene	Final Effluent	1/month	Grab
BTEX ⁴	Final Effluent	1/month	Grab
TPH-G ⁵	Final Effluent	1/month	Grab
Lead ⁶	Final Effluent	1/month	Grab
Volatile Organic Compounds ⁷	Final Effluent	1/month	Grab

¹ The final effluent sample point is defined as the nearest accessible point after final treatment and prior to actual discharge or mixing with other flows.

² In the event of any noncompliance with effluent limitations, the frequency for that parameter shall increase to once every two weeks until eight consecutive samples are demonstrated to be in compliance with the effluent limits.

³ The sampling frequency may revert back to once a month, upon written approval by the Department, if the test results indicate eight consecutive samples to be in compliance with effluent limits.

⁴ BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and xylenes using EPA Method 624 or approved equivalent method(s).

⁵ TPH-G (Total Petroleum Hydrocarbons, gasoline-range) shall be measured using approved Method NWTPH-Gx. Discussion of the test method for TPH is contained in Analytical Methods for Petroleum Hydrocarbons, Publication No. ECY 97-602, June 1997.

⁶ Total Recoverable Lead shall be measured using EPA Method 239.2 or an equivalent EPA-approved method which achieves a detection level of 5 ppb or less.

⁷ Volatile organic compounds are defined in 40 CFR 423, Appendix A.

S3. MONITORING AND REPORTING

The Permittee shall monitor the operations and efficiency of all treatment and control facilities and the quantity and quality of the waste discharged. A record of all such data shall be maintained. The Permittee shall monitor the parameters as specified in Condition S2 of this permit.

S3. MONITORING AND REPORTING: (continued)

A. Reporting

Monitoring shall be started on the effective date of the permit whenever a discharge occurs. Monitoring results obtained during the previous three (3) months shall be summarized and reported on the Discharge Monitoring Report (DMR) Form (EPA 3320-1) and submitted no later than the 15th day of the month following the completed reporting period. Reports are due January 15, April 15, July 15, and October 15 of each year. A separate report shall be completed for each month and submitted to the Department on a quarterly basis. The report shall be sent to the Department of Ecology, Northwest Regional Office, 3190 - 160th Avenue SE, Bellevue, Washington 98008-5452. The first report is due July 15, 2004.

B. Records Retention

The Permittee shall retain for a minimum of three (3) years all records of monitoring activities and results, including all reports of recordings from continuous monitoring instrumentation. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, and time of sampling; (2) the company and individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Representative Sampling

Samples and measurements taken to meet the requirements of this condition shall be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

E. Test Procedures

All sampling and analytical methods used to meet the monitoring requirements specified in this permit shall, unless approved otherwise by this permit or in writing by the Department, conform to the Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR Part 136.

S3. MONITORING AND REPORTING: (continued)

F. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations or at a minimum frequency of at least one calibration per year.

G. Laboratory Accreditation

All monitoring data, except for flow, temperature, pH, and internal process control parameters, shall be prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 WAC. Soils and hazardous waste data are exempted from this requirement pending certification of laboratories for analysis of these media by the Department.

H. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit (S2.), the monitoring shall be done using acceptable test procedures and the results of this monitoring shall be included in the Permittee's self-monitoring reports.

I. Signatory Requirements

All applications, reports, or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
2. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department, and

S3. MONITORING AND REPORTING: (continued)

- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 3. Changes to authorization. If an authorization under paragraph I.2.b is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of I.2.b must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for willful violations."

S4. SOLID WASTE DISPOSAL

- A. The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface waters.
- B. The Permittee shall not permit leachate from its solid waste material to enter state surface waters without providing all known, available, and reasonable methods of treatment (AKART), nor permit such leachate to cause any adverse effect on state ground waters. The Permittee shall apply for a permit or permit modification as may be required for such discharges.
- C. If there are any changes to the existing Solid Waste Control Plan, the Permittee shall submit to the Department an updated Solid Waste Control Plan within thirty (30) days prior to the changes that will be implemented.

S5. SPILL PLAN

The Permittee shall submit to the Department an update to the existing Spill Control Plan by October 30, 2004.

The Spill Control Plan shall include the following:

- A. A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- B. A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- C. A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.

For purposes of meeting this requirement, plans and manuals required by 40 CFR Part 112 or contingency plans required by Chapter 173-303 WAC may be submitted.

S6. TREATMENT SYSTEM OPERATING PLAN

Wastewater treatment systems shall be operated according to procedures and criteria described in an approved operating plan.

This plan shall be updated within thirty (30) days after the changes have been implemented.

The plan shall include, but is not limited to, the following:

- A. A baseline operating condition which describes the operating parameters and procedures used to meet the effluent limitations of S1 at the production levels used in developing these limitations.
- B. A description of any regularly scheduled maintenance or repair activities at the permitted facilities which would affect the volume or character of the wastes discharged; a list including quantities and chemical compositions of any maintenance-related substances (such as cleaners, degreasers, solvents, etc.) that will be discharged, and a plan for monitoring and treating/controlling the discharge of maintenance-related materials.

S7. STORMWATER BEST MANAGEMENT PRACTICES PLAN

The Permittee shall submit to the Department an update to the existing Stormwater Pollution Prevention Plan (SWPPP) with the permit reapplication required in General Condition G17.

The Permittee shall modify the existing SWPPP whenever there is a change in design, construction, operation, or maintenance, which causes the SWPPP to be less effective in controlling pollutants. Whenever the description of potential pollutant sources or the pollution prevention measures and controls identified in the SWPPP are inadequate, the SWPPP shall be modified, as appropriate, within two (2) weeks of such determination. The proposed modifications to the SWPPP shall be submitted to the Department at least thirty (30) days in advance of implementing the proposed changes in the plan unless the Department approves immediate implementation. The Permittee shall provide for implementation of any modifications to the SWPPP in a timely manner.

S8. WELL CONSTRUCTION DETAILS

All new wells, including Dual Vapor Extraction (DVE) wells, must be constructed in accordance with Chapter 173-160 WAC, Parts 1 and 3 (Minimum Standards for Construction and Maintenance of Wells). Figure 7 in Chapter 173-160 WAC illustrates the well construction. A well design report shall be submitted to the Department thirty (30) days after the well construction. The final report shall include at a minimum the following information:

1. Well construction details;
2. Identification of the name, company, and license number of the driller;
3. Method of drilling the wells;
4. Identification of the name and company of the supervising geologist or hydrogeologist;
5. A copy of the well log and construction details for the well;
6. A copy of material safety data sheets for all products used to construct the well, including well casing, grout, or sealant, filter pack material, and well screen;
7. Description of the method of well development, a summary of results, and geologic sampling frequency;
8. A copy of sample results.

All monitoring wells shall: 1) be clearly labeled, 2) be capped, 3) be locked, 4) be identified with a unique well identification number, and 5) contain a vertical reference point which relates to the nearest vertical benchmark based on the geodetic vertical datum of 1929. Ground water elevations shall be made prior to purging. The report shall be signed by a qualified ground water scientist or a qualified engineer.

S9. GROUND WATER QUALITY ANNUAL EVALUATION

The Permittee shall submit a ground water quality report to the Department beginning one year after the issuance date of this permit and annually thereafter. The final report shall be submitted by June 30, 2005. The report shall include a minimum of the following:

- TPH and benzene concentrations measured in monitoring wells in the vicinity of recovery operation
- Volume of groundwater pumped through the groundwater treatment plant
- Plan view of monitoring well locations

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1. The authorization is made in writing by a person described above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2, above, is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2, above, must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
 - 1. Violation of any permit term or condition.
 - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 - 3. A material change in quantity or type of waste disposal.
 - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].
 - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR Part 122.64(4)].
 - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
 - 7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the state.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
 6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
 2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

G4. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred and eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes; ordinances; or regulations.

G7. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least one hundred and eighty (180) days prior to the specified expiration date of this permit.

G8. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

G9. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G10. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

G11. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

G12. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G13. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G14. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G16. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- 1) an upset occurred and that the Permittee can identify the cause(s) of the upset;
- 2) the permitted facility was being properly operated at the time of the upset;
- 3) the Permittee submitted notice of the upset as required in Condition S3.E; and
- 4) the Permittee complied with any remedial measures required under S5 of this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G17. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privilege.

G18. DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G19. TOXIC POLLUTANTS

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G20. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two (2) years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

G21. REPORTING ANTICIPATED NONCOMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Department.

G22. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

The Permittee must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 - 1. One hundred micrograms per liter (100 µg/l).
 - 2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
 - 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 - 1. Five hundred micrograms per liter (500 µg/L).
 - 2. One milligram per liter (1 mg/L) for antimony.
 - 3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - 4. The level established by the Director in accordance with 40 CFR 122.44(f).

G24. COMPLIANCE SCHEDULES

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.